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Stuart Eizenstat
Deputy Secretary of the Treasury and
Special Representative of the Secretary of State and the President on
Holocaust-Related Issues

Senate Foreign Relations Committee

Mr. Chairman, Senator Biden:

I appreciate the opportunity to testify today. The effort of the U.S. Congress to provide a public forum for the discussion of Holocaust-related matters over the past several years has been a powerful asset in our work to bring justice, however belated, to Holocaust survivors and other victims of World War II and to bring out long-suppressed truths about World War II and Holocaust-era assets.

You have just heard one of the true witnesses of the Holocaust, Elie Weisel. No one can exceed his eloquence and his towering moral stature on this subject.

The Holocaust was not only the worst genocide in history, but also perhaps history's greatest theft. In order to operate their war machine, the Nazis stole the gold from the treasuries of the nations they occupied; took the valuables of the people they killed, including gold from their victims' teeth; looted the museums and private art collections of Europe of over an estimated 600,000 works of art; and forced some twelve million people to work in their factories and fields, under terrible conditions and for little or no pay, to free German workers to serve in the military. Jewish businesses were "Aryanized"—that is seized from their owners and turned over to others often with the complicity of German banks. Jews were forced to sell their homes for little or no compensation. Their personal property was stripped from them before they were sent off to the camps. Their communal property—synagogues, cultural centers, schools, and cemeteries—was confiscated and most of it destroyed.

Over the last several years, our government has been trying, in cooperation with other governments and many private organizations, to bring some measure of justice to surviving victims and their families by recovering property that was stolen from them, by enforcing their rights under insurance contracts that were abrogated, by compensating them for personal injuries sustained and for slave labor and forced labor performed under brutal conditions. Over one hundred thousand Holocaust survivors, and tens of thousands of other Americans who were forced laborers during the War live in the United States. These issues have great significance to them. Our policy on Holocaust issues also serves important U.S. foreign policy interests, such as maintaining close relations with Germany, a partner of ours in promoting and defending democracy for the last fifty years and a nation that is vital to both the security and economic development of Europe and, with Switzerland, a major trading partner. It also helps in the removal of impediments to greater cooperation and unity among the nations of that continent. More broadly, the horrors of the Holocaust provided a lesson applicable to contemporary events. The firm action of the United States and NATO in Kosovo were motivated, in part, by an unwillingness to repeat the world's indifference to the plight of peoples subjected to genocidal persecution. UN judicial tribunals dealing with Rwanda and Kosovo build on the precedent of the Nuremberg trials. The bipartisan focus on human rights violations, from Chechnya to China, resonates with Holocaust-related issues.

Slave and Forced Labor and Other Wrongs

I would like to start with the current negotiations over slave and forced labor and other wrongs. The parties to these negotiations include the Conference on Jewish Material Claims against Germany, the lawyers for the victims, and the Governments of Belarus, the Czech Republic, Poland, Russia, Ukraine and the State of Israel. The United States Government, represented by myself, and the German government, represented by Count Otto Lambsdorff, co-chair the talks. They are focused on the establishment and funding of a new entity, to be created by the Federal Republic of Germany, to be called the Foundation for Remembrance, Responsibility and the Future. Through this Foundation Initiative, those who worked as forced and slave laborers and those who suffered at the hands of German companies during the Nazi era can receive recognition of their suffering and dignified payments.

These negotiations, which have been ongoing for the last year, through eleven formal negotiating rounds and innumerable other informal sessions, are proceeding in four phases: (1) agreement on the total amount of money available to the Foundation; (2) agreement on the allocation of that sum among different categories of claims and, in the case of forced and slave labor claims, by country; (3) legislation that must be passed by the Bundestag creating the Foundation and confirming the agreements made during the negotiation; and (4) an undertaking by the United States, to be confirmed in an Executive Agreement between our government and the German government, that it will support "legal peace" for German companies in the following manner: in any actions brought against German industry arising out of the Nazi era, our government will file in court a Statement of Interest requesting that, assuming the establishment of a comprehensive

Foundation, the Foundation be the exclusive remedy for Nazi-era claims against German companies and that dismissal of such cases is in the U.S. foreign policy interest.

Last December, after hard negotiation, the first phase was completed. The German companies and government agreed to raise their combined contribution to the foundation's capitalization to 10 billion DM, half from German companies and half from the German government. This amounts to approximately \$5 billion under current exchange rates. That sum will cover all World War II injuries committed by German companies, including slave and forced labor to insurance, banking, Aryanized property and medical experiments. This offer was a substantial increase over the initial German proposal of 1.5 billion DM at the beginning of the process, 6 billion DM in October and a subsequent offer of 8 billion DM in November. All the parties to these negotiations accepted the 10 billion DM offer as the capped amount for the German Foundation and the sum that will resolve the lawsuits.

Two weeks ago, in Berlin, after another long and arduous negotiation, we successfully completed the second phase, an agreement on allocation. I would like to spell it out in some detail.

Of the 10 billion DM, 8.1 billion plus 50 million in anticipated interest earnings will be allocated to pay claims to slave and forced laborers and to others for personal injuries. One billion will go to property claims and insurance claims, as well as property and insurance humanitarian funds. 700 million DM will go into a Future Fund the purpose of which will be to promote tolerance and advance social programs, taking into account the heirs of forced laborers. 200 million DM will be used for administration of the Foundation.

The labor payments will be allocated among the Conference on Jewish Material Claims and five Reconciliation Foundations—in Poland, Ukraine, Russia, Belarus and the Czech Republic— created around the time of German reunification and funded by the German government to make payments to Nazi victims. An additional allocation will be made to an organization or organizations, yet to be designated, that will cover survivors living in the rest of the world, including the United States.

The Reconciliation Foundations in the five Central European countries will handle payments to all their citizens, including Jewish slave laborers. The Claims Conference will reach surviving slave laborers residing outside these five countries.

The agreed allocations, including an amount of estimated earned interest, are as follows:

Claims Conference	1.812 billion DM
Poland	1.812 billion DM
Ukraine	1.724 billion DM
Russia	835 million DM
Belarus	694 million DM

Czech Republic	423 million DM
Rest of the World	800 million DM
Other Personal Injury (e.g. medical experiments)	50 million DM

The one billion DM for property issues will be divided as follows: 350 million for claims for which there is clear documentation and 650 million for humanitarian cases, in which the certitude of the documentation has been eroded by the passage of time. The humanitarian portion will be further divided between insurance and property. All property and humanitarian claims would go to those who must first certify their property was looted. The 350 DM for claims for which there is clear documentation will be divided even further: 150 million for claims where the taking of property was racially motivated, 50 million for all other property claims and 150 million for insurance claims, which will be supplemented by an additional 50 million DM generated from earned interest from the Foundation capital. There will be an additional reserve of 100 million DM in the Future Fund to cover additional insurance claims, creating the potential for 300 million DM in insurance claims, if required.

In phase three, the German cabinet has submitted to the Bundestag draft legislation creating the Foundation. The German Foundation will be established under German law. We welcome this because the Foundation is the vehicle through which the German Government will appropriate their five billion DM contribution, and because it will subject the Foundation to well established oversight and accountability requirements that charitable organizations in Germany must meet.

On February 16, I had the privilege of testifying before the Bundestag Committee on Domestic Affairs concerning the issues we believe still need to be resolved in the draft legislation creating the Foundation. I was particularly grateful for the opportunity to testify before the Bundestag, recognizing just how unusual it is to have a foreign government official testify concerning domestic legislation. Such an invitation underscores the unique and historic nature of this initiative.

I said in my testimony that the German legislation must embody the elements that are necessary for us to accomplish our goal: the creation of a comprehensive, fair, and transparent Foundation that will make payments to some one million victims of the Nazi era in return for assisting the German companies with achieving legal peace in U.S. courts. In the testimony and in subsequent meetings, I have reiterated that the legislation needs to reflect the compromises and agreements that were reached during the many months of negotiations on the substantive issues. I have reminded the Germans that if it fails to do so, it is unlikely that the plaintiffs' lawyers will in fact agree to dismiss their cases or that the U.S. Government can assist in providing the breadth of legal peace the German companies desire and deserve.

I believe the German Government fully recognizes the importance of passing legislation that the participants and the United States Government can support as faithful

to our negotiations, and that it recognizes the importance of creating a structure and a process that, once enacted, can allow the legal peace German companies seek.

The most significant remaining issue regarding the legislation concerns the scope of the Foundation. The Foundation must be empowered to offer a potential remedy for any conceivable claim against German industry arising out the Nazi era. Without such universality, we will not be able to go before a U.S. court to state that the Foundation offers a remedy, that should be regarded by the court as the exclusive remedy, for all Nazi era suits against German companies.

During technical level talks with the German Government and companies this week, we had a productive discussion of this and all of the remaining issues. I am gratified that the Germans reaffirmed their intention to work with us to resolve these outstanding issues on an expedited basis. We understand passage of the legislation is expected by July, which would allow the Foundation to be up and running and to begin making payments by the end of the year.

It is critical for Congress and the American people to understand why the U.S. Government would provide Statements of Interest urging U.S. courts to view the German Foundation Initiative as the exclusive remedy for claims for Nazi-era claims against German companies and to indicate that dismissal of current and future suits is in the foreign policy interests of the U.S. Conventional litigation would be a highly unsatisfactory solution for elderly slave and forced laborers and others injured by German companies during the War. The reasons why the German Foundation Initiative is a superior remedy are as follows:

First, the success of litigation is problematic, given the variety of legal defenses available. Already, federal judges have dismissed two of the cases.

Second, litigation would take years to reach fruition, with lengthy discovery, motions and appeals. Survivors average around 80 years of age and are passing away at a rate of some one percent a month. Thus, few survivors would benefit from litigation, even if it were successful. Even a classic class action settlement would take years to consummate, as the Swiss bank settlement underscores.

Third, any litigation would benefit only, at best, a small subset of surviving slave and forced workers, compared to the number who would benefit from the German Foundation Initiative. This is because the only survivors who could recover in such litigation are the few thousands who were employed—and could prove it under strict judicial rules—by the few German companies, less than 20, who were sued because they do business in the U.S. and are subject to the jurisdiction of our courts. By contrast, the Foundation Initiative will cover, under relaxed standards of proof, some one million workers, including those who worked for German companies now defunct or not subject to U.S. jurisdiction including SS companies and companies owned by the German government. Indeed, the German legislation will permit the Reconciliation Foundations in Central and Eastern European countries to even pay forced agricultural workers, if they

wish to do so. For these groups of people, the Foundation Initiative represents the only possible avenue for obtaining a measure of long-awaited justice.

There has been a good deal of expectation and confusion over who will benefit from the successful conclusion of these negotiations. Let me emphasize a few points:

- American citizens who qualify will receive the same benefits as anybody else, and their applications will be processed by an organization or organizations in the U.S. Travel to Germany or elsewhere will not be required.
- If Congress approves, American citizens will be able to exclude their benefits from income under a tax provision in President Clinton's 2001 Budget that provides a clear statutory exemption for Holocaust-related reparations.
- No racial, ethnic or religious group will get favorable treatment. A slave or forced laborer, whether he or she is a Czech, Pole, Jew, Romanian or another nationality or religion will qualify if they meet the required definitions.
- Detailed explanations of exactly who is eligible and how to apply for a benefit will be widely publicized. These important details are still under negotiations. But, please be assured the outreach effort --once a settlement is concluded -- will be comprehensive.

I am hopeful all victims, whether or not they will directly benefit, indeed all people of good will, will take real satisfaction in the knowledge that at least deserving Holocaust survivors and other victims of Nazism will get recognition for their suffering and at least some small measure of justice.

Insurance

With the encouragement and public support of the U.S. government, the International Commission on Holocaust Era Insurance Claims (ICHEIC) was established in October 1998 by the National Association of Insurance Commissioners in cooperation with several European insurance companies, European regulators, representatives of several Jewish organizations, and the State of Israel. Chaired by former Secretary of State Lawrence S. Eagleburger, the Commission is charged with establishing a just process that will expeditiously address the issue of unpaid insurance policies issued to victims of the Holocaust. The International Commission launched its full-scale claims and outreach program in February of this year. Using relaxed standards of proof in dealing with outstanding claims from the Holocaust era, the ICHEIC process will ensure the opening of companies' files, the cross-checking of names with Yad Vashem's records of Holocaust victims, and further research into European archives to find names of potential claimants.

Secretary Eagleburger and the International Commission have supported our efforts in the negotiations to establish the German Foundation. Because the intended beneficiaries of the ICHEIC and the German Foundation are identical with regard to

insurance, and because no insurance company should have to pay twice, the International Commission became part of this broader effort when Secretary Eagleburger agreed to work to link the ICHEIC with the Foundation. Secretary Eagleburger's support not only cleared a path for agreement on the insurance portion of the German Foundation allocation, but also helped set the stage for agreement on other allocation issues.

The insurance portion of the German Foundation settlement involves funds destined for the ICHEIC, both for claims and humanitarian purposes, the details of which are as follows:

- 200 million DM were allocated for all insurance claims: 150 million DM for those arising from the German market and from German companies' policies issued outside the German market. This amount also includes the German contribution to ICHEIC administrative expenses. In addition to this amount, a supplemental amount of 50 million DM (to be drawn from interest earned by the Foundation capital) was allocated to cover claims from the non-German markets of German insurance companies.
- 100 million DM will be held in reserve in the German Foundation Future Fund only to be drawn for insurance claims, should they exceed the allocated 200 million DM.
- 350 million DM were allocated for humanitarian purposes.

The German Foundation allocation decisions have not altered the internal workings of the ICHEIC. The legislation that will establish the Foundation recognizes that ICHEIC procedures will govern the processing of all claims against German insurance companies brought to the Foundation. ICHEIC should be, in our view, the exclusive remedy for these claims. The draft legislation before the Bundestag provides that the funds allocated to the Foundation for all insurance claims payments will be passed through to the ICHEIC; that these funds will include payments for humanitarian insurance purposes and that this money will be for the sole benefit of and administered by ICHEIC.

The issue remaining is whether all German insurance companies will join the International Commission. Count Lambsdorff has on several occasions expressed his confidence that, with the International Commission's approval of this insurance allocation, all German insurance companies that issued policies during the Holocaust era will join both the Foundation and the ICHEIC and follow ICHEIC's claims procedures. He has promised his best efforts to accomplish this goal.

We commend the five European insurance companies that have joined the ICHEIC -- Allianz, Axa, Generali, Winterthur, and Zurich. We strongly encourage all insurers that issued policies during the Holocaust era -- especially those in Austria, and those in the Netherlands such as Aegon -- to join the International Commission and participate fully in its programs. The ICHEIC is the best and most expeditious vehicle for resolving insurance claims from this period, and membership in the International

Commission provides the only real way of both ensuring that valid claims are paid and resolving international moral and humanitarian responsibilities for heirless and nationalized claims or those against companies no longer in existence.

U.S. Government support for the International Commission on Holocaust Era Insurance Claims includes recognition that the MOU signed by the five ICHEIC member companies gives those companies cooperating with the Commission "safe haven" from sanctions, subpoenas, and hearings relative to the Holocaust period. I recently wrote to the state insurance commissioners in Washington State and California, emphasizing my strong support for the international efforts to create a claims settlement process under the International Commission and stressing that, in their legitimate concern for Holocaust survivors, proposed actions in these states could undermine the work of the ICHEIC.

Austria

The entry of the far-right Freedom party into a coalition government with one of Austria's mainstream parties, the conservative People's Party, has caused great concern both here and in Europe. President Clinton and Secretary of State Albright have made clear our concerns with past statements of the Freedom Party, which seem to have condoned intolerance and attempted to explain away the Holocaust. However, in the preamble to the coalition agreement, signed by both parties, the new Austrian government has promised to uphold democracy, tolerance and human rights and to condemn discrimination. We are watching developments in Austria closely to ensure that the government lives up to its promises. We will look at what the government does, as well as what it says. One important benchmark in this regard is how the new government will deal with unresolved Holocaust issues.

I am pleased to report progress in the area of forced and slave labor compensation. In early February, the new government appointed the former head of the Austrian central bank, Dr. Maria Schaumayer, as the head of a new office to deal with these issues. In an initial negotiating round on March 20, Dr. Schaumayer outlined to me her government's plans for handling forced and slave labor. The Austrian program would closely parallel the German foundation initiative and consist of the following elements:

- a joint effort between the Austrian government and industry;
- coordination with the German effort to assure that the German foundation covers slave laborers in Austrian concentration camps;
- coverage by the Austrian fund of Hungarian Jews who were forced into labor outside of the concentration camp system;
- compensation levels that would parallel those in the German effort; and
- coverage for agricultural labor.

She also outlined an ambitious timetable that would involve passage of legislation by July, if the question of legal peace could be resolved by then, and commencement of operation of the fund by the end of this year.

Dr. Schaumayer and I agreed that we would try to have two more meetings on forced and slave labor by the middle of May: one in Washington at the end of April; and Dr. Schaumayer and I will have another round of talks in May in Vienna.

While we are pleased with these commitments, the government also needs to address restitution and compensation issues. There had been a restitution effort in the 1950s and 1960s, but it had some gaps, and there may have been problems with implementation. Dr. Schaumayer said that the Austrian government may take up restitution once forced and slave labor compensation efforts are well underway. Our government will continue to convey to Austrian officials our hope that there can be an acceleration of their efforts on restitution. We hope that Austrian officials understand our concerns, and that the government plans to deal with restitution issues soon. As I have already noted, we will be watching developments in Austria closely to ensure that the government lives up to the preamble in the coalition agreement, and one important benchmark in this regard is how the new government will deal with unresolved Holocaust issues, including restitution.

Swiss Bank Settlement

Swiss banks have agreed to pay \$1.25 billion to settle lawsuits brought on behalf of victims who sent their funds to Switzerland for safekeeping and whose heirs had been refused access to those funds for over fifty years, and other victims with a relationship to the banks. The Volcker Commission found some 26,000 people who very probably had such accounts. The court is in the process of reviewing the fairness of the settlement and is trying, with the help of Yad Vashem in Jerusalem, to find their heirs so they can recover.

There has recently been progress after a four-month delay. Judge Korman, the presiding judge of this Holocaust victims assets case, had postponed his contemplated ruling on the fairness of the settlement to await the Swiss Federal Banking Commission decision on implementation of the Volcker recommendations of December 6. On March 30, the Swiss Federal Banking Commission authorized Swiss banks to publish the 26,000 accounts that are deemed by the Volcker Committee to have a probability of being related to Holocaust victims.

In addition, the Commission authorized the banks to create a central database containing these accounts plus another 20,000 that may be related to Holocaust victims. We hope that the banks continue to support the Claims Resolution Tribunal, which is necessary to process claims relating to the new accounts. We also hope that a database will be put in place in line with the recommendations of the Volcker Committee. In early December, that Committee recommended to the Swiss authorities that the databases and other documentation that were assembled on the approximately 4.1 million accounts that existed in Swiss banks during the 1933-45 period, now dispersed in over 50 locations

throughout Switzerland, be centralized in one archive. The Committee believes this is an essential part of the deposit claims resolution process that will consider not only claims to accounts the names of which have already been published, but also claims from other sources. The Board of Trustees of the Claims Resolution Tribunal, which includes members of the Swiss banking community, endorsed this recommendation. Judge Korman also said the recommendation should be implemented. However, the Swiss Federal Banking Commission stated on March 30 that it viewed this recommendation as neither necessary nor meaningful. I will confer with Paul Volcker on how the objectives of the Committee's recommendations can be achieved and keep this Committee informed.

The stage is now set for other steps that are expected in the near future relating to the Court's access to a refugee database and a list of German companies whose assets were frozen in Switzerland during the War. Once the Court obtains this and other information, such as information relating to insurance matters, it will be in a position to rule on the fairness of the settlement. Thereafter, the Special Master of the Court will be directed to submit his plan of allocation and distribution, and the Court will then hold a final hearing on the settlement.

Nazi Gold

Two massive U.S. government studies were completed in 1997 and 1998. The first discovered that over \$4 billion in gold stolen by the Nazis was smelted into gold bars and converted, mostly through the Swiss National Bank, into hard currency the Nazis used to buy what they needed from neutral countries. Six tons of gold still in the hands of the Tripartite Gold Commission was owed to central banks of various nations. We found some of this gold had, in fact, been taken from Holocaust victims, not just from central banks, and had been smelted into disguised gold bars. The second study documented the role of neutral countries in supporting the Nazi war effort.

The December 1997 London Conference on Nazi Gold established the Nazi Persecutee Relief Fund to provide assistance to needy survivors of Nazi persecution. Seventeen countries have pledged \$61 million. Congress appropriated \$25 million over a three-year period. We allocated the first year's tranche of \$4 million to the Conference on Jewish Material Claims Against Germany to provide support to survivors living in Eastern and Central Europe. We are now in the process of allocating the second tranche of \$10 million. I am suggesting that half go for the benefit of former slave and forced laborers, \$4.5 million to the Claims Conference and \$500,000 to several Holocaust education and research projects.

Art Restitution

At a conference in Washington in December 1998, forty-four nations reached consensus on a set of principles designed to try to find some of the 600,000 artworks stolen by the Nazis and their collaborators and return them to their pre-War owners. Some museums are implementing those principles, along with their own guidelines, to take the initial steps in returning art stolen by the Nazis to its rightful owners. Many of

our largest museums have been going through their collections, seeking to identify works that may have been looted by the Nazis.

An excellent example of thorough research has been demonstrated by the National Gallery in Washington in a three-year project. From its inception, the National Gallery has conducted extensive research into the provenance of paintings in its collection, with particular attention over the past several years to the World War II era. The Gallery was in a unique position to accomplish this research because of a number of factors. It was able to devote a knowledgeable researcher full-time to the project. It has always had all its curatorial files on painting and sculpture in its collection physically located in one place. It is in the middle of a multi-year project to publish a systematic catalogue of its entire collection, which entails intense ongoing research on provenance by Gallery curators and outside authors. Its entire collection is on a database which includes all known provenance information. The Gallery's location in Washington makes it relatively accessible to the National Archives in College Park where much of the data needed for Holocaust research is located. And the Gallery itself is the repository of important relevant records, such as the personal papers of people involved in the post-war restitution efforts and records from the Munich Central Collecting Point, to which stolen art hidden by the Nazis was shipped when uncovered by Allied armies.

In the course of its research, the Gallery discovered that eight paintings in its collection had in fact been looted during the War Archival research, however, uncovered documentation indicating that each of these works had been returned to its *Still Life with Fruit and Game*, was discovered to have gone through the hands of Karl Haberstock, a dealer known to have been involved with looted art. Despite careful research, the ownership history of this painting has not yet been established.

The National Gallery has made its entire collection available on its website, including known provenance information for all paintings and sculpture in the collection. It has made World War II provenance information easily accessible by providing expedited search capabilities, such as the ability to search provenance history by names of former owners and dealers associated with Gallery works of art. The Gallery's curatorial files and its World War II archival resources are also available on-site for research. The Gallery welcomes any information that would augment or clarify the ownership history of objects in its collection. I am submitting for the Record an example of what is available on the National Gallery's website.

The effort is not just confined to the largest museums. The North Carolina Museum of Art announced recently that one of its paintings, "Madonna and Child in a Landscape," by the German master Lucas Cranach the Elder, had been stolen by the Nazis and is actually owned by the heirs of a Viennese physician. In keeping with the Washington Principles, the Museum researched the question of provenance, working in cooperation with the Holocaust Claims Processing Office of the State of New York and the Commission for Art Recovery of the World Jewish Congress and is in the process of returning it.

On the international scene there has been some progress in the area of art restitution. The Cultural Committee of the Council of Europe prepared model legislation on the return of Jewish cultural property, which the Parliamentary Assembly of the Council adopted last November. We hope this model will engender new legislation on this subject in European national parliaments, similar in scope to the groundbreaking restitution law adopted by Austria in 1998.

The ten national museums and galleries of the United Kingdom are engaged in intensive provenance research to discover works that fall into the category of looted art. They have published, or are publishing, lists of works in their collections, the whereabouts of which, following initial research, cannot with certainty be specified for the whole period 1933-45, and are appealing to the public for help in finding out more information about the provenance of these works. In addition, the United Kingdom has established a "Spoilation Advisory Panel" to hear claims for Nazi-confiscated art.

Germany's Cultural Minister of State recently announced that Germany will inaugurate a website to help restore Nazi-confiscated art to its rightful owners. All major German museums were called upon to inspect the provenance of the artwork in their possession. Any artwork -- including coin collections and artifacts -- that is found to have unclear provenance will be publicized, with pictures, on the website. Restitution would not be affected by the German Foundation Initiative. This German art initiative follows the lead of the web site the French government has operated for many years to display art returned to France after the War but never claimed.

The Lithuanian Government announced at the end of January that, under the auspices of the Council of Europe, it was inviting representatives of the world community to a forum on cultural properties of Holocaust victims to be held in Vilnius in October.

I would like to include for the record the implementing principles adopted by the American Association of Museums entitled, "Guidelines Concerning the Unlawful Appropriations of Objects During the Nazi Era." I also ask that the Statement by the Federal German Government, the Laender (Federal States) and the national associations of local authorities on the tracing and return of Nazi-confiscated art, especially from Jewish property, be included in the record of this hearing.

In December 1998, at the Washington Conference, the Russian Delegation invited Holocaust survivors and their heirs to claim looted artwork captured by the Soviet Forces at the end of World War II. The Russian Constitutional Court has upheld legislation that would permit the restitution of art confiscated by the Nazis from victims of persecution. However, this will be a hollow commitment unless Russian art archives are opened. The Russian government subscribed to the Washington Principles on Art and has indicated a willingness to open these archives, but has not as yet done so, at least in part because of financial constraints. We have been approached by several groups interested in cooperating with the Russians on cataloguing art in Russian depositories. We encourage such an initiative and would be happy to facilitate such an effort. One idea is to create an

NGO to make grants that would help establish a reliable database of Nazi confiscated art in Russia and assist in the identification of rightful owners.

Communal Property

During the Nazi era, the Germans seized a great deal of property in Central and Eastern Europe that belonged to religious organizations -- churches and synagogues. The property was converted into commercial, social and municipal facilities. Jewish communal property was a particular target, as seizing it advanced the Nazi goal of eliminating all traces of Judaism and the Jewish people from the continent.

The successor communist governments for the most part did not restore these properties to their original owners but used them in much the same manner that the Nazis did. Thus when the Iron Curtain was lifted, the new states of Central and Eastern Europe faced a massive task of deciding how to deal with this property, much of which had been exploited for non-religious purposes for over a half century.

Changing property ownership and use after such an extended period of time is a difficult and complex undertaking. At the same time, governments must realize that honoring property rights is a pre-requisite to participating in the international marketplace and in attracting investment from abroad. While this may be initially expensive and politically sensitive, sound property restitution systems are clearly in the interest of all the Central and Eastern European countries. The nations of Western Europe, as well as the U.S., adhere to high standards when it comes to private property rights, including restitution. As the Central and Eastern European countries are fully integrated into Western institutions, they should realize the importance of sound property restitution laws.

In my discussions with government officials since the mid-1990s, I have emphasized a number of principles that seem to me to be important in addressing property restitution issues. These principles include:

- Equitable, transparent and non-discriminatory procedures to evaluate specific claims.
- Access to archival records and use of alternative forms of evidence if primary documents no longer exist.
- Implementation of restitution policies at national, regional and municipal levels.
- Non-discriminatory procedures, without citizenship or residence requirements.
- Clear and simple legal procedures.
- Implementation of court decisions on the basis of equality and non-discrimination.
- Priority of restitution claims before privatization occurs.

- Provisions for the present occupants of restituted property.
- Transfer of clear title including the right of resale, not simply the right to use property, which could be revoked at a later time.
- Restitution or compensation for communal property irrespective of whether the property had a religious or secular use.
- Establishment of foundations, managed jointly by local communities and international groups, to aid in the preparation of claims and to administer restituted property.
- Protection of cemeteries and other religious sites.

Appended to my written testimony is a country-by-country summary of property restitution issues. There has been some progress since I commenced my activities in this area in 1995, but much remains to be done. Romania, for example, still lacks a comprehensive law on the restitution of private residential property. The newly independent states of the former Soviet Union have dealt with both private and communal property in only a cursory manner.

Poland merits more detailed attention because of the large amount of potentially restitutable private and communal property in that country and recent developments. In September of last year, the Polish government submitted to Parliament private property legislation that was non-discriminatory in terms of allowing former Polish citizens and their heirs who now live outside of Poland to file property claims. However, in December a parliamentary committee added restrictive residency requirements which we believe are discriminatory. We have raised this issue with senior visiting Polish officials here in Washington and our Embassy has raised it in Warsaw. In addition, I believe that Congressman Christopher Smith, Chairman of the Commission on Security and Cooperation in Europe, sent a letter to the Polish Ambassador to the United States, and other Members of Congress have considered contacting the Parliament directly. Polish government officials have assured us that they strongly favor the draft submitted by the government and are opposed to the amendments. They have promised to work to restore its original intent before it is reported to the floor. Congress' help with the Polish Parliament would be very timely.

Notwithstanding the forthcoming attitude of the Polish government, communal property in Poland poses a special problem as the Holocaust and subsequent emigration has reduced the Jewish community in that country to approximately one percent of the pre-World War II population. The small remaining community has made substantial progress in claiming communal property but it was obvious at the time that communal property legislation was passed approximately three years ago that the community would not be able to claim, manage and maintain the property to which it was entitled without some outside assistance. The answer to this problem appeared to be the establishment of

a joint foundation by the World Jewish Restitution Organization and the Polish Jewish communities. Negotiations between the two groups broke down last year. To get the two parties back to the negotiating table, I asked Ambassador Henry Clarke to serve as a mediator. In four negotiating sessions since last fall, Ambassador Clarke has helped the parties to find solutions to some of their differences. I am hopeful that the foundation can be organized in the near future. It would be tragic if further delays prevented the prompt return of communal property in Poland.

Historical Commissions

Eighteen nations currently have commissions examining their role during World War II, some of whom abetted the Nazi cause, gave haven to war criminals and facilitated the flow of confiscated assets. They are: Argentina, Austria, Belgium, Brazil, Croatia, Estonia, France, Italy, Latvia, Lithuania, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, the United Kingdom, and the United States. In addition, the Government of Slovakia has agreed to create a commission. Some commissions have already made their reports, with varying degrees of thoroughness and candor. The most comprehensive thus far have been the two reports published by Switzerland, the first on how Swiss banks helped the Nazis use stolen gold to finance their war machine; and the second on how and why Swiss authorities closed the border to refugees attempting to flee Germany. In our own country, a Presidential Commission headed by Edgar Bronfman is investigating the circumstances under which Nazi money, property and other assets flowed through the hands of the U.S. Government during the War and particularly after the War.

Archives

Archival openness is essential, not only to assist in making claims and advancing scholarship, but so that every country can honestly confront its behavior during these difficult years and draw the lessons needed to advance tolerance and social justice. It is important, for example, that the Russians open up their archives on Raul Wallenberg and museums in all countries allow scholarly and provenance research into their collections.

At a conference in Stockholm last month, attended by delegates from 46 nations, a declaration was agreed to calling for opening up archives containing information on the Nazi-World War II era. In addition, following my request to Count Lambsdorff, he has informed me that many of the companies involved in the German slave/forced labor initiative have agreed to open their archives from this era to legitimate historical research. Some have done so already. We are encouraging the broadest participation of German companies in this effort at openness.

The Vatican has authorized a group of Jewish and Catholic scholars to thoroughly review its collection of published documents from the Nazi era, with the purpose of raising appropriate issues. The Vatican is both a religious seat and a secular state conducting diplomatic relations. The questions that have been raised concerning Vatican policies during the Nazi era should relate solely to its latter role. This scholarly initiative

is a small step forward toward archival openness, in keeping with Pope John Paul's inspirational leadership in bettering Catholic-Jewish relations, most recently exemplified by his moving words at the Holocaust Memorial at Yad Vashem and his symbolic appearance at the Western Wall during his recent trip to the Holy Land. We hope it will lead to additional measures for archival openness.

Education and Remembrance

As we proceed with addressing Holocaust-related issues, it is important to move from money to memory. The last word on the Holocaust should be the memory of its victims and the teaching of its enduring lessons. I had the distinct honor of leading the U.S. delegation to The Stockholm International Forum on the Holocaust in January. The Stockholm Forum, appropriately the first major conference of the new millennium, was an outstanding success and built upon the previous Holocaust conferences held in London and Washington. Twenty heads of state and government and delegations from 46 countries attended. Only his prior commitment to deliver the State of Union address prevented the President from attending.

Delegates committed their countries to promoting Holocaust education and remembrance, encouraging the study of the Holocaust in schools and universities, and in taking all necessary steps to open relevant archives. As embodied in the "Stockholm Declaration," a copy of which I enclose for the Record. These commitments, made by national political leaders, are unprecedented, and in the words of Holocaust survivors with whom I spoke, "monumental" and "historic." Argentina, Bulgaria, Latvia, and Lithuania requested the nine country International Holocaust Education Task Force to begin liaison projects on teaching the Holocaust with them, and, along with Ukraine, expressed interest in Task Force membership.

The concept of the Stockholm Forum was the personal initiative of Swedish Prime Minister Persson. In addition to the leadership and inspiration he gave to the Forum, he also demonstrated exceptional political leadership in exploring the historical truth of Sweden's wartime neutrality and in remembering the horrible crimes of the Holocaust era.

The work of the International Holocaust Education Task Force continues. It is translating the experience and expertise gained in teaching the Holocaust in countries that are members of the Task Force to other countries, helping them to develop Holocaust education and remembrance in their societies. There has been a successful project in the Czech Republic aimed at training in the teaching of the Holocaust, and similar projects have been requested by other countries.

To help support such activities, the Task Force last month established an endowment fund, to be administered by the Swedish Ministry of Foreign Affairs. Our government strongly supports this fund, and hopes to be able to announce a contribution in the near future.

In the same Stockholm Declaration of which I spoke, the participating nations committed their countries to promoting Holocaust education and remembrance, and encouraging the study of the Holocaust in their schools and universities.

Presidential Commission on Holocaust Assets in the United States

Mr. Chairman, my friend and partner in many of these endeavors, Edgar M. Bronfman, is testifying here today in his role as Chairman of the Presidential Advisory Commission on Holocaust Assets in the United States. While I am a member of that Commission, I will defer to him and not address the Commission's work today.

I would like to note to the Committee that on March 28, the President sent to the Congress a supplemental appropriations bill that included \$1.4 million for the Presidential Commission.

In the course of the Presidential Commission's work, we have discovered new areas of inquiry that must be examined. Among the projects the supplemental would support are a review of agreements that may have existed between the United States and Western European countries regarding the restitution of property to individuals; a review of bank and travel agent records of assets transferred to the United States by Holocaust victims; and the cross-matching of names of Holocaust victims with unclaimed property lists.

Because the Presidential Commission will deliver its final report by the end of December, it is extremely important that these authorized funds be appropriated as soon as feasible so that the Commission can make use of them while it is still conducting its research. We have urged other countries to establish historical Commissions to examine their own nations' role during that period. We have urged them to be complete and transparent in their research. We can do no less.

The Administration strongly supports this proposal, and I ask the members of the Senate to act on it expeditiously.

Nazi War Criminal Records Interagency Working Group

The Nazi War Crimes Disclosure Act calls for identification, declassification and public access to millions of pages of Nazi war criminal records by a deadline of January 2002. The Nazi War Criminal Records Interagency Working Group (IWG) oversees the project, which includes searching for records, analyzing them, monitoring and auditing the declassification process, maintaining a IWG database, preparing and describing the records for presentation to the public in usable form, and assuring that war-time records in poor physical condition survive to be seen by the public. This last includes copying, microfilming, digitizing, and conservation treatment of highly acidic, yellowing, and crumbling wartime paper. The work the IWG is doing very important work, none more important to the public and to the future than assuring that the records survive.